

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**THE TRANSPARENCY PROJECT,**

Plaintiff,

vs.

**U.S. DEPARTMENT OF JUSTICE,**

Defendant

**Case No. 4:20-cv-468**

**PLAINTIFF’S RESPONSE TO NOTICE OF PENDING DISMISSAL**

NOW COMES the Plaintiff, responding to the Court’s August 31, 2020 Notice of Pending Dismissal (Doc. No. 3) as follows:

On June 12, 2020, the undersigned sent copies of the Plaintiff’s Original Complaint and summonses via certified mail to the U.S. Attorney’s Office for the Eastern District of Texas in Sherman and to the Office of the Attorney General in Washington, D.C.<sup>1</sup> Postal records indicate that the packages were delivered to the Sherman USAO on June 15, 2020 and the Office of the Attorney General on June 17, 2020. On September 1, 2020, the Plaintiff was first notified of the Defendant’s contention that service was inadequate. *See* September 1, 2020 Email from Andrea Parker to Ty Clevenger (Exhibit 1). On September 3, 2020, however, the Defendant agreed to waive any further service

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<sup>1</sup> As witnessed by his electronic signature below, Ty Clevenger declares under penalty of perjury under the laws of the United States of America that (1) his statements in this response are true and correct; and (2) the exhibits to this response are true and correct copies of the documents that he represents them to be.

requirements and to answer not later than October 2, 2020. *See* September 3, 2020 Email exchange between Andrea Parker and Ty Clevenger (Exhibit 2).

The Plaintiff respectfully contends that its claims should not be dismissed. The Defendant waived service on September 3, 2020, *i.e.*, less than 90 days after the Original Complaint was filed, therefore the Plaintiff is in compliance with Fed. R. Civ. P. 4(m). Furthermore, the Plaintiff initiated service on the same day the case was filed, and it had no reason to believe that service was ineffective until September 1, 2020. In other words, any delay in service was not the result of negligence or bad faith. For all of these reasons, the Plaintiff should be permitted to proceed with its claims.

Respectfully submitted,

**/s/ Ty Clevenger**

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**Counsel for The Transparency Project**

### **CERTIFICATE OF SERVICE**

I certify that I filed this response and its exhibits with the Court's ECF system on September 8, 2020, which should result in automatic email notification to Asst. U.S. Attorney Andrea Parker, counsel for the Defendant.

**/s/ Ty Clevenger**

Ty Clevenger